REMARKS

In response to the Office Action, Applicant respectfully requests the Examiner to reconsider the above-captioned application in view of the foregoing amendments and the following comments.

Discussion of Claim Rejections under 103(a)

In the Office Action, the Examiner rejected Claims 1-4, 6-8, 11, 12, 16, 19-22, 24-26, 28-31, 33 and 33 and 36 as being unpatentable over U.S. Patent No. 5,777,680, to Kim in view of U.S. Patent No. 6,760,478, to Adiletta.

To establish a *prima facie* case of obviousness a three-prong test must be met. First, there must be some suggestion or motivation, either in the references or in the knowledge generally available among those of ordinary skill in the art, to modify the reference. Second, there must be a reasonable expectation of success found in the prior art. Third, the prior art reference must teach or suggest all the claim limitations. *In re Vaeck*, 947 F.2d 488 (Fed. Cir. 1991). Applicant respectfully submits that the cited prior art fails to teach or suggest in isolation or in combination at least one limitation from each of the above-listed independent claims.

Applicant submits that the prior art fails to teach or suggest all claim limitations. Specifically, neither Kim nor Adiletta teach a characteristic being determined by prediction without using either a result of first sub-encoding the current frame. Amended Claim 1 and Claims 7, 11, 12, 13, 15-20, 25, 28-30 and 32-36 contain a limitation similar to this. Thus, Applicant respectfully submits in view of the amendment, independent Claims 1, 7, 11, 12, 13, 15-20, 25, 28-30 and 32-36 and their dependent claims are now in condition for immediate allowance.

In the interview, the Examiner agreed that both Kim and Adiletta use the current frame for prediction and thus fail to teach or suggest at least this feature. In view of this, the Examiner agreed to conduct a supplemental search.

Applicant further submits that the prior art fails to teach or suggest all claim limitations of independent Claims 37 and 38. Specifically, neither Kim nor Adiletta disclose the characteristic being a sum of the sum of all measures of prediction errors of blocks that have the first identity, and a normalized sum of all measures of prediction errors of blocks that have the second identity multiplied by the time elapsed between the current frame and the reference frame. Thus,

Applicant respectfully submits in view of the amendment, independent Claims 37 and 38 and their dependent claims are now in condition for immediate allowance.

Conclusion

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

The undersigned has made a good faith effort to respond to all of the noted rejections and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain of if an issue requires clarification, the Examiner is respectfully requested to call Applicant's attorney in order to resolve any such issue promptly.

Respectfully submitted,

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